

Subpart F—What Compliance Procedures May the Secretary Use?

§ 345.60 Who is subject to a corrective action plan?

(a) Any State that fails to comply with the requirements of this part is subject to a corrective action plan.

(b) A State may appeal a finding that it is subject to corrective action within 30 days of being notified in writing by the Secretary of the finding.

(Authority: 29 U.S.C. 2215(b)(1); section 105(b)(1) of the Act)

§ 345.61 What penalties may the Secretary impose on a grantee that is subject to corrective action?

A State that fails to comply with the requirements of this part may be subject to corrective actions such as—

(a) Partial or complete termination of funds;

(b) Ineligibility to participate in the grant program in the following year;

(c) Reduction in funding for the following year; or

(d) Required redesignation of the lead agency.

(Authority: 29 U.S.C. 2215(b)(2); section 105(b)(2) of the Act)

§ 345.62 How does a State redesignate the lead agency when it is subject to corrective action?

(a) Once a State becomes subject to a corrective action plan under § 345.60, the Governor of the State, subject to approval by the Secretary, shall appoint, within 30 days after the submission of the plan to the Secretary, a monitoring panel consisting of the following representatives:

(1) The head of the lead agency designated by the Governor;

(2) Two representatives from different public or private nonprofit organizations that represent the interests of individuals with disabilities;

(3) Two consumers who are users of assistive technology devices and assistive technology services and who are not—

(i) Members of the advisory council, if any, of the consumer-responsive comprehensive statewide program of technology-related assistance; or

(ii) Employees of the State lead agency; and

(4) Two service providers with knowledge and expertise in assistive technology devices and assistive technology services.

(b) The monitoring panel must be ethnically diverse. The panel shall select a chairperson from among the members of the panel.

(c) The panel shall receive periodic reports from the State regarding progress in implementing the corrective action plan and shall have the authority to request additional information necessary to determine compliance.

(d) The meetings of the panel to determine compliance shall be open to the public (subject to confidentiality concerns) and held at locations that are accessible to individuals with disabilities.

(e) The panel shall carry out the duties of the panel for the entire period of the corrective action plan, as determined by the Secretary.

(f) A failure by a Governor of a State to comply with the requirements of paragraphs (a) through (e) of this section results in the termination of funding for the State under this part.

(g) Based on its findings, a monitoring panel may determine that a lead agency designated by a Governor has not accomplished the purposes described in § 345.2(a) and that there is good cause for redesignation of the agency and the temporary loss of funds by the State under this part.

(h) For the purposes of this section, “good cause” includes the following:

(1) Lack of progress with employment of qualified staff;

(2) Lack of consumer-responsive activities;

(3) Lack of resource allocation to systems change and advocacy activities;

(4) Lack of progress with meeting the assurances in § 345.30(b); or

(5) Inadequate fiscal management.

(i) If a monitoring panel determines that the lead agency should be redesignated, the panel shall recommend to the Secretary that further remedial action be taken or that the Secretary order the Governor to redesignate the lead agency within 90 days or lose funds under this part. The Secretary,